

SUPREME COURT OF WISCONSIN

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In the Matter of the Amendment of  
Rules of Civil Procedure, Small Claims  
Procedure, Presumptions: Wis. Stat. §§  
799.12, 799.16(2), 800.04(2m), 814.62(4)  
and 891.46 -- Service by Mail and  
Publication in Small Claims Proceedings,  
Default Judgments in Municipal Ordinance  
Cases; Presumption of Service Upon Mailing

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ORDER  
No. 95-10

The court held a public hearing October 11, 1995 on the petition of the Judicial Council of Wisconsin seeking to amend the statutes governing procedure in civil and small claims proceedings and in municipal court proceedings. The court acted on the petition in respect to statutes governing procedure in civil and small claims proceedings in its order issued October 17, 1995 and in that order it referred to the Municipal Judges Association for review and comment the proposed amendment of Wis. Stat. § 800.04(2m) to authorize default judgment in municipal court proceedings upon proof of mailing of the summons or citation to the defendant's last-known address.

The court has received the response of the Municipal Judges Association in support of the proposed amendment and has considered other responses filed with the court in the matter.

IT IS ORDERED that, effective July 1, 1996, 800.04 (2m) of the statutes is amended to read:

(2m) If a defendant does not appear at the initial appearance, the court may issue a warrant to bring the defendant before the court. Upon proof of personal service of the summons

or citation under s. 800.01(1), or upon proof of service of the summons or citation under s. 801.11(1)(b), the court may enter a default judgment by reason of the failure of a defendant to respond to a citation under s. 800.02(2)(a) or a summons under s. 800.02(4). If a warrant is issued for a defendant under this subsection, the defendant may be detained in jail prior to the initial appearance.

IT IS FURTHER ORDERED that notice of this amendment of the rules of pleading, practice and procedure shall be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 6th day of December, 1995.

BY THE COURT:

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Marilyn L. Graves, Clerk